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Chapter No. 62

10/HR40/A941SG

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***HOUSE BILL NO. 1667***

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1667

AN ACT MAKING AN APPROPRIATION FROM SPECIAL FUNDS IN THE STATE TREASURY FOR THE PURPOSE OF DEFRAYING THE EXPENSES OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION, FOR THE FISCAL YEAR 2011; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** The following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury to the credit of the Department of Transportation Funds, for the purpose of defraying the administrative expenses of the Mississippi Department of Transportation for the fiscal year beginning July 1, 2010, and ending June 30, 2011 .....  
..... \$ 1,049,000,000.00.

**SECTION 2.** The following offices are supported by the funds appropriated in Section 1: The Office of Administrative Services, the Office of Highways, the Office of Aeronautics and Rails and the Office of Enforcement. Of the funds appropriated under the provisions of Section 1, not more than the amounts set forth below shall be expended for Salaries, Wages and Fringe Benefits .....  
..... \$ 159,375,581.00.

AUTHORIZED POSITIONS:

Permanent:	Full Time .....	3,466
	Part Time .....	19
Time-Limited:	Full Time .....	0
	Part Time .....	0

With the funds herein appropriated, it is the intention of the Legislature that it shall be the agency's responsibility to make certain that funds required to be appropriated for "Personal

Services" for Fiscal Year 2012 do not exceed Fiscal Year 2011 funds appropriated for that purpose, unless programs or positions are added to the agency's Fiscal Year 2011 budget by the Mississippi Legislature. Based on data provided by the Legislative Budget Office, the State Personnel Board shall determine and publish the projected annual cost to fully fund all appropriated positions in compliance with the provisions of this act. It shall be the responsibility of the agency head to ensure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2011 appropriations for "Personal Services" when annualized, with the exception of escalated funds. If, at the time the agency takes any action to change "Personal Services," the State Personnel Board determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2011 "Personal Services" appropriated level, when annualized, then only those actions which reduce the projected annual cost and/or the appropriation requirement will be processed by the State Personnel Board until such time as the requirements of this provision are met.

Unless otherwise authorized in this act, no state agency shall take any action to promote or otherwise award salary increases through reallocation, reclassification, realignment, educational benchmark, career ladder, equity salary adjustment, or any other means to increase salaries of employees or positions unless specifically exempted by the following conditions: the award of teacher salary increments; the advancement of a trainee/cadet to the next level of a bona fide career ladder; the award of an educational benchmark for the attainment of a Certified Public Accountant License or higher level professional certification based on information provided to the State Personnel Board by the Legislative Budget Office; the immediate replacement of a departing employee with an employee from within state service at a salary level of the departing employee or the Fiscal Year



2011 promotional formula, whichever is less; the emergency appointment of nurses, pharmacists or other health care and child protection professionals at a salary to be determined by the State Personnel Board; or a new hire associated with the American Recovery and Reinvestment Act of 2009. All positions supported by funds available through the American Recovery and Reinvestment Act of 2009 shall be designated as time-limited positions.

Any transfers or escalations shall be made in accordance with the terms, conditions and procedures established by law or allowable under the terms set forth within this act. The State Personnel Board shall not escalate positions without written approval from the Department of Finance and Administration. The Department of Finance and Administration shall not provide written approval to escalate any funds for salaries and/or positions without proof of availability of new or additional funds above the appropriated level.

No general funds authorized to be expended herein shall be used to replace federal funds and/or other special funds which are being used for salaries authorized under the provisions of this act and which are withdrawn and no longer available.

**SECTION 3.** Of the funds appropriated to the Mississippi Department of Transportation under the provisions of Section 1 and authorized for expenditure in Section 2, the following amounts shall be available for expenditure in the program budgets as required by Section 27-103-127, Mississippi Code of 1972:

Administration and Other Expenses .....	\$ 55,702,997.00
Construction .....	\$ 718,097,155.00
Maintenance .....	\$ 185,216,680.00
Debt Service .....	\$ 40,184,930.00
Law Enforcement .....	\$ 14,938,458.00
Aeronautics, Rails and other .....	\$ 34,859,780.00

**SECTION 4.** It is the intention of the Legislature that the Mississippi Department of Transportation shall maintain complete

accounting and personnel records related to the expenditure of all funds appropriated under this act and that such records shall be in the same format and level of detail as maintained for Fiscal Year 2010. It is further the intention of the Legislature that the agency's budget request for Fiscal Year 2012 shall be submitted to the Joint Legislative Budget Committee in a format and level of detail comparable to the format and level of detail provided during the Fiscal Year 2011 budget request process.

**SECTION 5.** Of the funds appropriated in Section 1 and authorized for expenditure in Section 2, it is the intention of the Legislature that Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be transferred to the Department of Agriculture and Commerce for the Beaver Control or Eradication Program during the Fiscal Year 2011.

**SECTION 6.** Of the funds appropriated in Section 1 of this act, the Mississippi Department of Transportation shall expend such funds as necessary to conduct project planning. Such project planning shall apply to all preliminary engineering, right-of-way acquisition and construction projects of the department and, at a minimum, shall consist of policies for the oversight and management of project cost which:

(a) Establish a reasonable cost estimate for each project. For purposes of this provision, projects include preliminary engineering, right-of-way acquisition and construction;

(b) Capture and retain the initial project cost estimates for comparison with final actual expenditures;

(c) Require that any changes to a cost estimate for a project will be reviewed and approved by district or central office personnel. Such personnel shall be responsible for signing any revision, and providing a narrative description of the reasons for approving a revision;

(d) Capture the cost of consultants, engineers, attorneys, contract appraisers and other technical and professional contractors used in preliminary engineering, right-of-way acquisition and construction projects.

**SECTION 7.** None of the funds appropriated under the provisions of Section 1 of this act may be expended by the Department of Transportation for construction of new highways if such highway segment is less than ten (10) miles in length unless:

(a) The explanation and justification for letting such a contract for a length of less than ten (10) miles is entered upon the official minutes of the Transportation Commission;

(b) The commission, within ten (10) working days after entry of its explanation and justification upon its minutes, gives notice, by United States First Class Mail, and provides a copy of such entry upon its minutes, to the Chairman of the Transportation Committee of the Mississippi House of Representatives and the Chairman of the Mississippi Senate Highways and Transportation Committee.

**SECTION 8.** Of the funds appropriated to the Mississippi Department of Transportation, Three Hundred Thousand Dollars (\$300,000.00) shall be used for the Statewide Litter Prevention Program.

**SECTION 9.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to receive, budget and expend an amount not to exceed Six Million Dollars (\$6,000,000.00) resulting from funds received from third party damages. This escalation authority shall not apply to the "Administrative and Other Expenses" Program or the "Law Enforcement" Program.

**SECTION 10.** Of the funds appropriated in Section 1 and allocated in Section 2, not less than Eighty Million Dollars (\$80,000,000.00) shall be expended for contracted maintenance overlay and pavement rehabilitation.



**SECTION 11.** It is the intention of the Legislature that the Mississippi Department of Transportation shall have the authority to escalate its budget in the Maintenance Program, with funds which were obligated in Fiscal Year 2010 for maintenance overlay projects and maintenance repair projects but not completed by the end of Fiscal Year 2010, in an amount not to exceed Ten Million Dollars (\$10,000,000.00). Any escalation made from the authority granted in this section shall be reported to the Chairmen of the Appropriations Committees of the Mississippi Senate and the Mississippi House of Representatives, the Chairman of the Highways and Transportation Committee of the Mississippi Senate, the Chairman of the Transportation Committee of the Mississippi House of Representatives, and the Legislative Budget Office, within fifteen (15) working days after said escalation.

**SECTION 12.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to transfer between the various programs in an amount not to exceed ten percent (10%) of the amount allocated in Section 3, except that no transfers shall be authorized which increase the "Administrative and Other Expenses" Program or the "Law Enforcement" Program or which decrease the "Maintenance" Program.

**SECTION 13.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to escalate its budget for Fiscal Year 2011 for funds appropriated in Fiscal Year 2010 but not expended in Fiscal Year 2010 by the Mississippi Department of Transportation in the "Capital Outlay-Equipment" and "Vehicles" category in an amount not to exceed Two Million Dollars (\$2,000,000.00) as authorized in House Bill No. 22, 2009 Second Extraordinary Session, for Fiscal Year 2010.

**SECTION 14.** It is the intention of the Legislature that the Mississippi Department of Transportation shall have the authority to escalate its budget and expend funds not to exceed Twenty-five

Million Dollars (\$25,000,000.00) received from other public or private entities as reimbursements for payments made on federal projects. This escalation authority shall not apply to the "Administrative and Other Expenses" Program or the "Law Enforcement" Program.

**SECTION 15.** Of the funds appropriated in Section 1, the Mississippi Department of Transportation is authorized to expend an amount not to exceed One Hundred Thousand Dollars (\$100,000.00) to conduct a study on monorail transportation in Tunica and DeSoto Counties.

**SECTION 16.** It is the intention of the Legislature that none of the funds appropriated above shall be expended unless members of the Mississippi Senate and House of Representatives are notified at least five (5) days prior to a public ceremony announcing the award of any grant in their district or any public announcement of ceremony regarding the groundbreaking or opening of a facility, roadway or bridge for which the Legislature has made funds available. Any signage regarding any public event or any new facility, roadway or bridge shall include the following language: "Funds were made available for this project by the Mississippi State Legislature." Further, the signage shall state the four-year legislative term in which the project was funded.

**SECTION 17.** It is the intention of the Legislature that whenever two (2) or more bids are received by this agency for the purchase of commodities or equipment, and whenever all things stated in such received bids are equal with respect to price, quality and service, the Mississippi Industries for the Blind shall be given preference. A similar preference shall be given to the Mississippi Industries for the Blind whenever purchases are made without competitive bids.

**SECTION 18.** The Department of Transportation is hereby authorized to expend available funds on technology or equipment upgrades or replacements when it will generate savings through



efficiency or when the savings generated from such upgrades or replacements exceed expenditures thereof.

**SECTION 19.** It is the intention of the Legislature that the Department of Transportation shall have the authority to escalate its budget and expend funds not to exceed Thirty Million Dollars (\$30,000,000.00) received as reimbursements for payments on project costs associated with Senate Bill No. 3215 of the 2007 Regular Legislative Session. This escalation authority shall not apply to the "Administrative and Other Expenses" Program or the "Law Enforcement" Program.

**SECTION 20.** Of the funds appropriated in Section 1, the Mississippi Department of Transportation shall expend so much thereof as may be necessary to four-lane Highway 15 in Laurel to the Bay Springs City Limit and three-lane Highway 15 from the Bay Springs City Limit to the Industrial Park in lieu of a bypass.

**SECTION 21.** Of the funds appropriated in Section 1, Three Hundred Fifty Thousand Dollars (\$350,000.00) shall be used to access federal funds for costs associated with the Rails to Trails Program from Houston, Mississippi, to New Albany, Mississippi.

**SECTION 22.** It is the intention of the Legislature that of the funds appropriated in Section 1, the Mississippi Department of Transportation shall expend so much thereof as may be necessary for the project known as Government Fleet Road Extension that is designated as the Intermodal Port Connector Route 83, Adams County, Mississippi.

**SECTION 23.** It is the intention of the Legislature that of the funds appropriated in Section 1, One Hundred Twenty Thousand Dollars (\$120,000.00) shall be used to access federal and local funds for costs associated with the Natchez Trails Project in Natchez, Mississippi, and One Hundred Fifty-five Thousand Dollars (\$155,000.00) shall be used to pay costs associated with the exhibit.

**SECTION 24.** The Mississippi Department of Transportation is authorized to dispose of or transfer used cell phones that are obsolete or inoperable to cell phone recycling programs dedicated to providing free phone access to U.S. Military personnel.

**SECTION 25.** Of the funds appropriated in Section 1, the Mississippi Department of Transportation shall expend so much thereof as may be necessary to acquire land for, and construct, equip and maintain a hospitality station in Wilkinson County, Mississippi, on or along U.S. Highway 61 at or near the Mississippi/Louisiana state line, all in accordance with an agreement entered into and approved by the Mississippi Transportation Commission and the Mississippi Development Authority.

**SECTION 26.** Of the funds provided herein, it is the intent of the Legislature that in administering Local and Public Agency Projects, the Mississippi Department of Transportation shall follow all applicable Federal and State Laws.

**SECTION 27.** It is the intention of the Legislature that the agency shall compile cell phone usage records of any cellular phone (wireless communication device) that is assigned, issued or made available to any officer or employee in accordance with Section 25-53-191, Mississippi Code of 1972, and these records shall be made publicly available at the expense of the agency.

**SECTION 28.** It is legislative intent to ensure beneficial information reaches as many Mississippians as possible. Further, it is legislative intent that the expenditure of public funds for this purpose be accomplished in an efficient and effective manner.

Therefore, state agencies as standard procedure will observe the following criteria:

- (a) Develop goals and desired result for a campaign.
- (b) Evaluate effectiveness through respected advertising standards, including market reach and cost effectiveness.

(c) Seek public service announcements, which would be aired by media without cost.

(d) Itemize and justify professional assistance and related expenses for creative and production costs outside of the actual media expenditures.

(e) Utilize Mississippi-owned media companies when feasible.

**SECTION 29.** It is the intention of the Legislature that this agency shall have the authority to receive, budget and expend funds from any source that may become available to them as a result of the passage of the American Recovery and Reinvestment Act of 2009 in accordance with the rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

The Executive Director of the Department of Finance and Administration shall have the authority to approve escalations of funds and employee positions using funds from any source available due to the passage of the American Recovery and Reinvestment Act of 2009.

The Executive Director of the Department of Finance and Administration shall immediately send notice of the approval of such budget escalation to the House of Representatives Appropriations Committee, the Senate Appropriations Committee and the Legislative Budget Office. Within fifteen (15) days of such approval, the Executive Director of the Department of Finance and Administration shall ensure that the Legislative Budget Office receives detailed and accurate information about the amount and use of federal and special source funds by state agencies as a result of the passage of the American Recovery and Reinvestment Act of 2009.

**SECTION 30.** No former employee who is receiving State of Mississippi retirement benefits shall be hired under contract for an amount exceeding Twenty Thousand Dollars (\$20,000.00) a year



without prior approval by an agency's proper governing board or authority. Upon approval of such contracts, a written report shall be submitted detailing the cost and need of such contract services to the Chairmen and members of the Senate and House Appropriations Committees.

**SECTION 31.** In compliance with the "Mississippi Performance Budget and Strategic Planning Act of 1994," it is the intent of the Legislature that the funds provided herein shall be utilized in the most efficient and effective manner possible to achieve the intended mission of this agency. Based on the funding authorized, this agency shall make every effort to attain the targeted performance measures provided below:

	FY2011
<u>Performance Measures</u>	<u>Target</u>
Maintenance	
Overlay (Miles)	500
Mowing (Acres)	320,000
Construction	
Federal Funds Obligated (%)	100.00
Law Enforcement	
Trucks Weighed (Trucks)	6,700,000
Trucks over Axle or Gross (Trucks)	12,500
Weight/Size Permits Authorized (Permits)	155,000
Aeronautics & Rails	
Airports Inspected (Sites)	67
Grade Crossings Inspected (Crossings)	2,710

A reporting of the degree to which the performance targets set above have been or are being achieved shall be provided in the agency's budget request submitted to the Joint Legislative Budget Committee for Fiscal Year 2012.

**SECTION 32.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to pay invoices submitted by Southern Pine Electric Power

Association, Mississippi, for services in prior fiscal years in an amount not to exceed One Thousand Seven Hundred Seventy-six Dollars (\$1,776.00).

**SECTION 33.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to pay invoices submitted by Kansas City Southern for work performed in prior fiscal years in an amount not to exceed Six Hundred Thirty-six Thousand Four Hundred Fifty-two Dollars (\$636,452.00).

**SECTION 34.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to pay invoices submitted by Canadian National/Illinois Central Railroad for work performed in prior fiscal years in an amount not to exceed Four Hundred Nine Thousand Five Hundred Forty-two Dollars (\$409,542.00).

**SECTION 35.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to pay invoices submitted by CSX Transportation for work performed in prior fiscal years in an amount not to exceed Eighty-three Thousand Two Hundred Thirty-two Dollars (\$83,232.00)

**SECTION 36.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to pay invoices submitted by the City of Biloxi for work performed in prior fiscal years in an amount not to exceed Fifty-nine Thousand Seven Hundred Fifty-seven Dollars (\$59,757.00).

**SECTION 37.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to pay invoices submitted by Harrison County Sheriff's Department for services in prior fiscal years in an amount not to exceed Eleven Thousand Dollars and Fifty-nine Cents (\$11,000.59).

**SECTION 38.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to pay invoices submitted by Jackson County Sheriff's Department for

services in prior fiscal years in any amount not to exceed Eight Hundred Four Dollars and Seventy-five Cents (\$804.75).

**SECTION 39.** Of the funds appropriated in Section 1, the Mississippi Department of Transportation shall expend so much thereof as may be necessary to upgrade and maintain Highway 32 in Parchman from Highway 49 West to Highway 61.

**SECTION 40.** Of the funds appropriated in Section 1, the Mississippi Department of Transportation shall expend so much thereof as may be necessary to install roadway lighting on Highway 82 at the entrance of Mississippi Valley State University in Leflore County.

**SECTION 41.** It is the intention of the Legislature that the Mississippi Department of Transportation is hereby authorized to pay invoices submitted by Baker, Donelson, Bearman, Caldwell & Berkowitz, PC for work performed in prior fiscal years in an amount not to exceed Forty-one Thousand Six Hundred Thirteen Dollars and Seventy-three Cents (\$41,613.73).

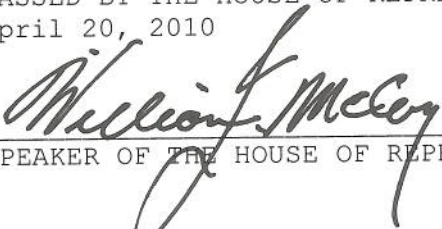
**SECTION 42.** Of the funds appropriated in Section 1, the Mississippi Department of Transportation shall expend an amount not to exceed Fifty Thousand Dollars (\$50,000.00) to continue a vehicle tracking system program.

**SECTION 43.** The money herein appropriated shall be paid by the State Treasurer out of any money in the State Treasury to the credit of the proper fund or funds as set forth in this act, upon warrants issued by the State Fiscal Officer; and the State Fiscal Officer shall issue his warrants upon requisitions signed by the proper person, officer or officers, in the manner provided by law.



**SECTION 44.** This act shall take effect and be in force from and after July 1, 2010.

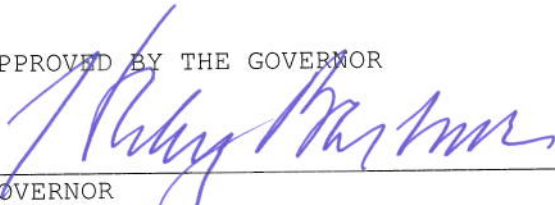
PASSED BY THE HOUSE OF REPRESENTATIVES  
April 20, 2010

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
April 20, 2010

  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR

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